

**ASSEMBLY BILL**

**No. 605**

**Introduced by Assembly Member Yee**

February 19, 2003

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An act to amend Sections 1, 5, and 7 of Chapter 489 of the Statutes of 2001, relating to lands granted in trust to the City and County of San Francisco.

LEGISLATIVE COUNSEL'S DIGEST

AB 605, as introduced, Yee. San Francisco waterfront: cruise ship terminal development.

Existing law declares specified areas along the San Francisco waterfront to be free from the public trust for commerce, navigation, and fisheries, as provided, and authorizes the San Francisco Port Commission to approve a cruise ship terminal development, other maritime facilities, and commercial and office space on a specified area of the San Francisco waterfront. Existing law authorizes the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but prescribes terms and conditions for the use of those lands in connection with the cruise ship terminal development, including a requirement that the trust retail leasable space must be equal to or greater than the nontrust retail leasable space. Existing law defines “nontrust retail” as other retail, indoor public assembly, and theatre uses.

This bill would change the definition of “nontrust retail” to mean other retail and theatre uses. The bill would also make other technical, nonsubstantive changes to the above described law.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1 of Chapter 489 of the Statutes of 2001  
2 is amended to read:  
3 Sec. 1. For purposes of this chapter, the following terms have  
4 the following meanings:  
5 (a) “BCDC” means the San Francisco Bay Conservation and  
6 Development Commission established pursuant to Section 66620  
7 of the Government Code.  
8 (b) “Bay jurisdiction” means the jurisdiction, powers, and  
9 duties of BCDC pursuant to Title 7.2 (commencing with Section  
10 66600) of the Government Code within the area defined in  
11 subdivision (a) of Section 66610 of the Government Code.  
12 (c) “Bay Plan” means the San Francisco Bay Plan as adopted  
13 and administered by BCDC pursuant to Title 7.2 (commencing  
14 with Section 66600) of the Government Code, including all  
15 amendments thereto.  
16 (d) “Boundary of the Port of San Francisco” means that line  
17 defining the boundary of “Parcel A” in the description of the lands  
18 transferred in trust to the City and County of San Francisco  
19 pursuant to Chapter 1333 of the Statutes of 1968, recorded on May  
20 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City  
21 and County of San Francisco Recorder’s Office.  
22 (e) “Brannan Street Wharf” means a major San Francisco  
23 waterfront park in the area of Piers 34 and 36, as identified in the  
24 Special Area Plan.  
25 (f) “Burton Act” means Chapter 1333 of the Statutes of 1968,  
26 as amended.  
27 (g) “Burton Act trust” means the statutory trust imposed by the  
28 Burton Act (Chapter 1333 of the Statutes of 1968, as amended),  
29 pursuant to which the state conveyed to the City and County of San  
30 Francisco, in trust, by transfer agreement, and subject to certain  
31 terms, conditions, and reservations, the state’s interest in certain  
32 tide and submerged lands.  
33 (h) “City” means the City and County of San Francisco.  
34 (i) “McAteer–Petris Act” means Title 7.2 (commencing with  
35 Section 66000) of the Government Code.



1 (j) “Public trust” or “trust” means the public trust for  
2 commerce, ~~or~~ navigation, and fisheries.

3 (k) “Port” means the City and County of San Francisco acting  
4 by and through the San Francisco Port Commission.

5 (l) “San Francisco Bay” means those areas defined in Section  
6 66610 of the Government Code.

7 (m) “San Francisco waterfront” means those portions of the  
8 area transferred to the port pursuant to the Burton Act that also lie  
9 within the area defined in subdivisions (a) and (b) of Section 66610  
10 of the Government Code.

11 (n) “Seawall Lot 330” means that parcel of property located in  
12 San Francisco identified on that certain map entitled SUR 790, and  
13 shown on Page 318 of the City and County of San Francisco 100  
14 Scale Ownership Maps, which is on file with the city’s Bureau of  
15 Street Use and Mapping.

16 (o) “Shoreline band jurisdiction” means the jurisdiction,  
17 powers, and duties of BCDC pursuant to Title 7.2 (commencing  
18 with Section 66600) of the Government Code to regulate uses  
19 within the area defined in subdivision (b) of Section 66610 of the  
20 Government Code to ensure, in part, maximum feasible public  
21 access, as prescribed in Section 66632.4 of the Government Code.

22 (p) “Special Area Plan” means the San Francisco Waterfront  
23 Special Area Plan, dated July 20, 2000, adopted by BCDC, as  
24 amended from time to time.

25 (q) “Street” means those lands located within the South  
26 Beach/China Basin Planning area of the San Francisco waterfront  
27 at Seawall Lot 330, and also lying within Parcel A of those lands  
28 transferred to the City and County of San Francisco pursuant to the  
29 Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573  
30 to 664, inclusive, in the San Francisco Recorder’s office, as more  
31 particularly described as that portion of Main Street, located  
32 between Bryant Street and the Embarcadero, vacated per  
33 Ordinance 14-93 on January 11, 1993, on file with the San  
34 Francisco Bureau of Street Use and Mapping, in Book 10, Page 94.  
35 All streets and street lines described in the preceding sentence are  
36 in accordance with that certain map entitled SUR 790, and shown  
37 on Page 318 of the City and County of San Francisco 100 Scale  
38 Ownership Maps, on file with the City’s Bureau of Street Use and  
39 Mapping.



(r) “Waterfront Land Use Plan” means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the port pursuant to Resolution No. 97–50, as amended from time to time.

SEC. 2. Section 5 of Chapter 489 of the Statutes of 2001 is amended to read:

Sec. 5. The Legislature, in the exercise of its retained power as trustee of the public trust, and in view of the unique circumstances existing at Pier 30-32 on the San Francisco waterfront and the considerable statewide public benefit and promotion of maritime transportation that will be brought about by the construction of a new passenger cruise ship terminal, improvements to berthing facilities for waterborne transit, a lagoon, improved public access and commercial public trust uses on this site, hereby authorizes the Port to approve a cruise ship terminal development on the San Francisco waterfront at Pier 30-32, which would include general office use and general retail use, if all of the following conditions are met:

(a) The development includes a modern two-berth cruise ship terminal.

(b) The development includes a public access component that meets the requirements of the Special Area Plan and the San Francisco Bay Plan as interpreted by BCDC and that also offers expanded bay views and public access.

(c) Prior to submitting a major permit application to BCDC for the cruise ship terminal development, the Port, after review by or on behalf of BCDC, approves the final design concept for the Brannan Street Wharf.

(d) Prior to the issuance of a BCDC permit for the cruise ship terminal development, the Port demonstrates, to the satisfaction of BCDC and the Attorney General’s office, that it has irrevocably encumbered all of the funds deemed necessary for the completion of the Brannan Street Wharf and has placed the funds in a segregated account guaranteed to be available to be drawn upon for the construction of the Brannan Street Wharf, and the Port and BCDC enter into an enforceable agreement that provides for the Port to fund, directly or through grant funding, or both, design, and construct the Brannan Street Wharf consistent with the following timetable:



1 (1) The Port shall complete preliminary engineering drawings  
2 for the Brannan Street Wharf and prepare and submit to BCDC a  
3 financing plan approved by the Port indicating funding sources  
4 and estimated construction costs at the time the construction of the  
5 cruise ship terminal development commences.

6 (2) The Port shall complete Phase 1, the northern portion of the  
7 Brannan Street Wharf (in the area of Pier 34), as described in the  
8 Special Area Plan contemporaneously with the construction of the  
9 cruise terminal development.

10 (3) The Port shall remove Pier 36 and complete the Brannan  
11 Street Wharf no later than five years after commencement of  
12 construction of the cruise ship terminal development.

13 (e) The amount of office space in the development does not  
14 exceed 300,000 leasable square feet, all of which shall be above  
15 the ground level. This office space shall also be designed to  
16 contribute to a development design that includes public spaces and  
17 promotes visual and public access. An additional 25,000 leasable  
18 square feet of space in the cruise ship terminal building may be  
19 used for general office use until the earlier of either of the  
20 following:

21 (1) Fourteen years from the first date of occupancy.

22 (2) When home berthing ships above 5,000 passenger berth  
23 capacity call for 15 days per year for two consecutive years.

24 (f) The development includes a marketing program designed to  
25 maximize the amount of general office space occupied by  
26 trust-related tenants over the life of the development.

27 (g) The cruise ship terminal ~~as development, if~~ approved by  
28 BCDC, complies with the requirements set forth in this  
29 subdivision. For purposes of this subdivision only, “trust retail”  
30 means visitor serving public trust retail and restaurant use.  
31 “Nontrust retail” means other retail, ~~indoor public assembly,~~ and  
32 theatre uses. The amount of trust retail leasable space shall be  
33 equal to or greater than the nontrust retail leasable space. The  
34 amount of trust ~~and~~ retail leasable space, nontrust retail leasable  
35 space, and visitor serving trust use converted from trust or nontrust  
36 retail ~~approved by BCDC,~~ as approved by BCDC, shall be at least  
37 40 percent of the total amount of office leasable space.

38 SEC. 3. Section 7 of Chapter 489 of the Statutes of 2001 is  
39 amended to read:

1     Sec. 7. Notwithstanding the Special Area Plan and the Bay  
2 Plan requirement for findings of consistency with the public trust  
3 doctrine and the Burton Act *trust*, BCDC is authorized to approve  
4 the cruise ship terminal development ~~trust~~ as provided in this act.  
5 Except as provided in Section 14 of this act, nothing in this act is  
6 intended to limit the discretion of BCDC to approve or deny  
7 permits for the projects described in this act in a manner consistent  
8 with the McAteer-Petris Act, the Bay Plan, the Special Area Plan,  
9 and this act, or to limit the discretion of BCDC to enforce permits  
10 issued for the projects described in this act.

